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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

MUR 6688

Bill Foster for Congress

and Aesook Byon as Treasurer

G. William (Bill) Foster

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY
SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include, without limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law.¹ It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances or, where the record indicates that no violation of the Act has occurred, to make no reason to believe findings. The Office of General Counsel has scored MUR 6688 as a low-rated matter² and has determined that it should not be referred to the Alternative Dispute Resolution Office. For the reasons set forth below, the Office of General Counsel recommends that the Commission find no reason to believe that the Respondents violated the Act with regard to the allegations in MUR 6688.

In this matter, Complainant Edmund A. Brezinski alleges that Representative G. William (Bill) Foster, 2012 candidate for Illinois' 11th Congressional District, loaned funds to his campaign

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

² The EPS rating information is as follows: Complaint Filed: November 6, 2012. Response from G. William Foster and Bill Foster for Congress Filed: January 15, 2013.

1 in order to pay for television advertisements prior to the 2012 general election, and that Foster's
2 principal campaign committee, Bill Foster for Congress and Aesook Byon, in her official capacity
3 as treasurer (the "Committee"), failed to disclose the loan or file a 48 Hour notification of the
4 receipt in violation of the Act and Commission regulations. Compl. at 1-2.

5 Complainant cites a November 4, 2012 Chicago Tribune article that states Foster "dug into
6 his own pocket for a six-figure loan to air last minute TV ads" to avoid being "outgunned" by his
7 opponent prior to the 2012 general election. *Id.* at 1; Ex. A. Complainant states that "[o]n
8 information and belief," the [television] "interview" took place on November 4, 2012, and that the
9 Committee began the related advertising buy on or about November 2, 2012. *Id.* at 1-2.
10 Complainant contends that the Committee's 48 Hour Notices did not include the disclosure of the
11 "six figure" loan allegedly made by Foster on November 2, 2012.³ *Id.* at 2.

12 In response, the Committee states that Foster loaned his committee \$500,000 on November
13 2, 2012, and that a 48 Hour report disclosing the loan was "timely" filed on November 4, 2012.
14 Resp. at 1. Attached to the Response is a copy of a 48 Hour Notice filed by the Committee on
15 November 4, 2012, which discloses a \$500,000 receipt from Foster on November 2, 2012.⁴ *Id.* at
16 Ex. A. Disclosure documents indicate that the Committee also disclosed the receipt of Foster's
17 loan, dated November 2, 2012, on its next scheduled report.⁵ See 2012 30 Day Post General Report
18 at 330, 376 (dated December 6, 2012).

³ Attached to the Complaint are copies of several 48 Hour Notices (FEC Form 6), which the Complainant alleges were filed by the Committee between October 20, 2012 and November 2, 2012. *Id.* at Ex. B.

⁴ The 48 Hour Notice filed on November 4, 2012 by Bill Foster for Congress is also accessible on the Commission website's Candidate and Committee Viewer, at <http://docquery.fec.gov/pdf/438/12961241438/12961241438.pdf>.

⁵ In addition, the Committee reported a \$500,000 expenditure to "SKDKnickerbocker LLC" on November 2, 2012 for "Cable TV." *Id.* at 356.

1 Campaign committees are required to file a 48 Hour notification of any contribution of
2 \$1,000 or more received less than 20 days but more than 48 hours before 12:01 a.m. of the day of
3 any election in which the candidate is running. 52 U.S.C. § 30104(a)(6)(A) (formerly 2 U.S.C.
4 § 434(a)(6)(A)); 11 C.F.R. § 104.5(f). The term "contribution" includes any gift, subscription, loan,
5 advance, or deposit of money made by any person for the purpose of influencing any election for
6 Federal office. 52 U.S.C. § 30101(8)(A) (formerly 2 U.S.C. § 431(8)(A)). The Commission must
7 receive the notice within 48 hours of the committee's receipt of the contribution, and the committee
8 must also itemize the last minute contribution on the committee's next scheduled report. 11 C.F.R.
9 § 104.5(f).

10 The Complaint alleges that Foster made a "six-figure" loan to the Committee on November
11 2, 2012, less than 20 days but more than 48 hours before the November 6, 2012, general election,
12 and that the Committee did not timely file a 48 Hour Notice disclosing the loan within 48 hours of
13 receipt. Compl. at 1-2. The Response specifically refutes this allegation, and asserts that the
14 appropriate 48 Hour Notice was timely filed. Furthermore, documents filed with the Commission
15 support the Respondents' assertion that the 48 Hour Notice was filed in a timely manner.
16 Additionally, the available information indicates that the Committee further complied with
17 reporting requirements by reporting the \$500,000 loan on its subsequent filings with the
18 Commission. Therefore, the Office of General Counsel recommends that the Commission find no
19 reason to believe that G. William (Bill) Foster, and Bill Foster for Congress and Aesook Byon, in
20 her official capacity as treasurer, violated 52 U.S.C. § 30104(a)(6)(A) (formerly 2 U.S.C.
21 § 434(a)(6)(A)) and 11 C.F.R. § 104.5(f). Further, the Office of General Counsel recommends that
22 the Commission approve the attached Factual & Legal Analysis and the appropriate letters, and
23 close the file
24


RECOMMENDATIONS

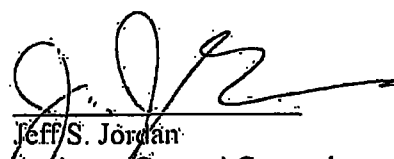
1. Find no reason to believe Bill Foster for Congress and Aesook Byon, in her official capacity as treasurer, violated 52 U.S.C. § 30104(a)(6)(A) (formerly 2 U.S.C. § 434(a)(6)(A)) and 11 C.F.R. § 104.5(f);
2. Find no reason to believe G. William (Bill) Foster violated 52 U.S.C. § 30104(a)(6)(A) (formerly 2 U.S.C. § 434(a)(6)(A)) and 11 C.F.R. § 104.5(f);
3. Approve the attached Factual and Legal Analysis and the appropriate letters; and
4. Close the file.


General Counsel

12/30/14
Date

BY:


Gregory R. Baker
Deputy General Counsel


Jeff S. Jordan
Assistant General Counsel
Complaints Examination
& Legal Administration


Donald E. Campbell
Attorney
Complaints Examination
& Legal Administration